



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9765-7]

Public Notice of Proposed Reissuance of the NPDES General Permits for Facilities/Operations That Generate, Treat, and/or Use/Dispose of Sewage Sludge by Means of Land Application, Landfill, and Surface Disposal in the EPA Region 8

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to reissue NPDES general permits and request for comments.

SUMMARY: Region 8 of the EPA is hereby giving notice of its tentative determination to reissue National Pollutant Discharge Elimination System (NPDES) general permits for facilities or operations that generate, treat, and/or use/dispose of sewage sludge by means of land application, landfill, and surface disposal in the States of CO, MT, ND, and WY and in Indian country in the States of CO, MT, ND, SD, WY and UT (except for the Goshute Indian Reservation and the Navajo Indian Reservation).

DATES: Public comments on this proposal must be received, in

writing, on or before [INSERT DATE 45 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Public comments should be sent to: WASTEWATER UNIT (8P-W-WW); ATTENTION: BIOSOLIDS PROGRAM; U.S. EPA, REGION 8; 1595 WYNKOOP STREET; DENVER, CO 80202-1129.

FOR FURTHER INFORMATION CONTACT: Copies of the draft permit and Fact Sheet may be downloaded from the EPA Region 8 web page at <http://www.epa.gov/region8/water/biosolids/documents.html>. For a printed copy of the draft permit and Fact Sheet, please write Bob Brobst at the above address or telephone (303) 312-6129. Questions regarding the specific permit requirements may be directed to Bob Brobst, telephone (303) 312-6129.

PUBLIC COMMENT PERIOD: Public comments are invited. Comments must be written and must be received by no later than [INSERT DATE 45 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments should be sent to: WASTEWATER UNIT (8P-W-WW); ATTENTION: BIOSOLIDS PROGRAM; U.S. EPA, REGION 8; 1595 WYNKOOP STREET; DENVER, CO 80202-1129. Each comment should cite the page number and, where possible, the section(s) and/or paragraph(s) in the draft permit or Fact Sheet to which each comment refers. Commenters should use a separate paragraph for

each issue discussed.

SUPPLEMENTARY INFORMATION: On June 21, 2000 and September 21, 2000, U.S. District Judge Donald W. Molloy issued orders stating that until all necessary total maximum daily loads under Section 303(d) of the Clean Water Act are established for a particular water quality limited segment, the EPA is not to issue any new permits or increase permitted discharges under the NPDES program. (The orders were issued in the lawsuit Friends of the Wild Swan, Inc., et al., v. U.S. E.P.A., et al., CV 97-35-M-DWM, District of Montana, Missoula Division.) The EPA finds that the reissuance of this proposed general permit does not conflict with this order, because (1) the proposed permit would not authorize any point source discharges and (2) as discussed under the "Protection of Public Health and The Environment" section of the Fact Sheet for the general permits, the use and/or disposal of sewage sludge in compliance with the conditions of this permit is not likely to have any adverse effect on any waterbody in Montana that has been listed under Section 303(d) of the Clean Water Act. If any member of the public believes that the EPA should interpret the District Court's decision otherwise, the EPA requests that this issue be brought to its attention during the public comment period on this proposed permit.

Since these permits do not involve discharges to waters of the United States, certification under §401(a)(1) of the Clean Water Act is not necessary for the issuance of these permits and certification will not be requested.

Region 8 is proposing to continue to use general permits instead of individual permits for permitting such sewage sludge related activities in order to reduce the Region's administrative burden of issuing separate individual permits. The renewal permits and fact sheets are very similar to the previous permits and fact sheets. Minor editing was done throughout the permits and fact sheets to correct typographic errors, update the list of the tribal environmental contacts, and some wording changes were made to provide clarification. The only significant changes made to the permits and fact sheets were: (1) References to Biosolids Data Management System (BDMS) was removed as it is no longer compatible with current computer systems; (2) In Table 12 several antiquated analytical methods were removed from the list of acceptable analytical methods to be used in the analysis of sewage sludge. These methods may still be used with permission of the permitting authority; and (3) In Part 5.1.1.2.8 of the landfilling part of the permit, the requirement to do Part 4.1.4 of the permit was added for when sewage sludge is used in the final cover of the landfill. The purpose is to require agronomic

soil sampling for calculating the proper amount of sewage sludge to be utilized in the establishment/maintenance of vegetation on the final cover of the landfill. The administrative burden for most of the regulated sources is expected to be less under the general permits than with individual permits, and it will be much quicker to obtain permit coverage with general permits than with individual permits. The substantive permit requirements would be essentially the same with an individual permit or under the general permit. Facilities or operations that incinerate sewage sludge are not eligible for coverage under these general permits and must apply for an individual permit. Wastewater lagoon systems that are not using/disposing of sewage sludge do not need to apply for permit coverage unless notified by the permit issuing authority. The deadlines for applying for coverage under the general permits are given in the permits and the Fact Sheet. Facilities/operations that had coverage under the previous general permit and have submitted a timely request for coverage under this renewal permit are covered automatically under this permit unless the permit issuing authority requires the submittal of a new notice of intent (NOI).

On February 19, 1993, (58 FR 9248,) the EPA promulgated "Standards for the Use or Disposal of Sewage Sludge" (40 CFR

503) and made revisions to the NPDES regulations to include the permitting of facilities/operations that generate, treat, and/or use/dispose of sewage sludge. The 503 regulations were amended on August 4, 1999 (64 FR 42551).

The States of South Dakota and Utah currently are the only States in Region 8 that have been authorized to administer the biosolids (sludge) program. It is proposed that the EPA general permits be reissued for facilities or operations that generate, treat, and/or use/dispose of sewage sludge by means of land application, landfill, and surface disposal within the following areas:

<u>State</u>	<u>Permit No.</u>	<u>Area Covered by the General Permit</u>
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Colorado:

COG650000	State of Colorado except for Federal Facilities and Indian country.
COG651000	Indian country within the State of Colorado and the portions of the Ute Mountain Indian Reservation located in New Mexico and in Utah.
COG652000	Federal Facilities in the State of Colorado, except those located in Indian country, which are covered under permit COG51000.

Montana:

MTG650000 State of Montana except for Indian country.

MTG651000 Indian country in the State of Montana.

North Dakota:

NDG650000 State of North Dakota except for Indian country.

NDG651000 Indian country within the State of North Dakota (except for Indian country located within the former boundaries of the Lake Traverse Indian Reservation, which are covered under permit SDG651000) and that portion of the Standing Rock Indian Reservation located in South Dakota.

South Dakota:

SDG651000 Indian country within the State of South Dakota (except for the Standing Rock Indian Reservation, which is covered under permit NDG651000), that portion of the Pine Ridge Indian Reservation located in Nebraska, and Indian country located in North Dakota within the former boundaries of the Lake Traverse Indian Reservation.

Utah:

UTG651000 Indian country within the State of Utah
except for the Goshute Indian Reservation,
Navajo Nation, and Ute Mountain Indian
Reservation (which is covered under permit
COG651000).

Wyoming:

WYG650000 State of Wyoming except for Indian country.

WYG651000 Indian country within the State of Wyoming.

The States of South Dakota and Utah have been authorized
permitting authority for sewage sludge, therefore the EPA's
general permits will be reissued only for Indian country in
those States. The general permit for Indian country in Utah
does not include the portions of the Goshute Indian Reservation
and the Navajo Nation in Utah because the permitting activities
for these reservations are done by Region 9 of the EPA. The
State of Colorado has not been authorized permitting authority
for Federal facilities, so a general permit is proposed for
Federal facilities not located in Indian country.

Authorization for use/disposal of sewage sludge under the

general permits may be for one of the following three categories: Category 1 - Facilities/operations that generate and/or partially treat sewage sludge, but do not use/dispose of sewage sludge; Category 2 - Facilities/operations that use/dispose of sewage sludge and may also generate and/or treat sewage sludge; and Category 3 - Wastewater lagoon systems that need to land apply sewage sludge on an occasional, restricted basis. Authorization for use/disposal of sewage sludge under the general permit will be limited to one of the three categories, but authorization may be granted to one or more subcategories under Category 2. In applying for authorization for use/disposal of sewage sludge under the general permit, the applicant will be required to specify under which category or subcategory(s) authorization is being requested. However, the permit issuing authority will have the final determination as to which category or subcategory(s) the authorization will be granted. The requirements in the permit for the use/disposal of sewage sludge are based primarily on 40 CFR Part 503.

Other Legal Requirements

Economic Impact (Executive Order 12866): The EPA has determined that the issuance of this general permit is not a "significant regulatory action" under the terms of Executive Order 12866 (58

FR 51735 (October 4, 1993)) and is therefore not subject to formal OMB review prior to proposal.

Paperwork Reduction Act: The EPA has reviewed the requirements imposed on regulated facilities in these proposed general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. §501 et seq. The information collection requirements of these permits have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

Regulatory Flexibility Act (RFA), 5 U.S.C 601 et seq., as amended by the Small Business regulatory Enforcement Fairness Act (SBREFA): The RFA requires that the EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. The permit proposed today, however, is not a "rule" subject to the requirements of 5 U.S.C. 553(b) and is therefore not subject to the RFA.

Unfunded Mandates Reform Act: Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104-4, generally requires Federal agencies to assess the effects of their "regulatory

actions" defined to be the same as "rules" subject to the RFA) on tribal, state, local governments and the private sector. The permit proposed today, however, is not a "rule" subject to the RFA and is therefore not subject to the requirements of the UMRA.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: December 17, 2012.

Derrith R. Watchman-Moore,
Assistant Regional Administrator,
Office of Partnerships and Regulatory Assistance.

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